



HCP(MD)No.1283 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 30.01.2023

CORAM

**THE HON'BLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN**

H.C.P.(MD)No.1283 of 2022

Fathima

.. Petitioner/wife of the
Detenu

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.State rep. by,
The District Collector and District Magistrate,
Thanjavur District,
Thanjavur.

3.The Superintendent,
Central Prison,
Tiruchirappalli.

.. Respondents



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PRAAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records from the 2nd respondent in Detention order in P.D.No.68/2022 dated 15.06.2022 and to set aside the said order of detenention passed by the 2nd respondent and to direct the respondents to produce the person or body of the detenu namely, Mohamed Farooq, S/o.Mohammed Sathik, aged about 35 years, now detained in the Central Prison, Trichirappalli, before this Court and set him at liberty.

For Petitioner : Mr.S.M.Mohan Gandhi

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

This petition is filed by the wife of the detenu challenging the preventive detention order of her husband branding him as 'Drug Offender'.



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2. According to the petitioner, the detention order suffers from non application of mind and failure to follow the due process. It is contended that Mohamed Farooq was arrested on 18.05.2022 while he was travelling along with two others by name Praveen Kumar and Pakkaram in a Mahindra Xylo car bearing Registration No.TN 12 5664. The police team attached to Thanjavur Town West Police Station seized huge quantity of banned tobacco product weighing around 549 kgs of tobacco products and on further investigation based on the confession of the accused persons, further seizure of nearly 2000 kgs of tobacco products were seized.

3. Considering their presence is a threat to public peace, detention order was passed by the detaining authority on 15.06.2022. The grounds of detention was served on the detenu to make due representation and it is contended that the copies were not legible and due to the illegible copy, proper representation could not be made. Further, it is also contended that the copies furnished to him is in English, which has disintitiled him to make effective representation. A few other grounds also raised by the petitioner to



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quash the impugned the detention order.

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4. This Court satisfied on the ground that the legible copies of the documents relied by the prosecution not been furnished. On perusal of the paper book, even the legible copies of Tamil translation of the documents is not given to the detenu. For the sole ground the detention order is quashed.

5. In the result, this Habeas Corpus Petition is allowed and the order of detention in P.D.No.68/2022 dated 15.06.2022, passed by the second respondent is set aside. The detenu, viz., Mohamed Farooq, S/o.Mohammed Sathik, aged about 35 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[G.J.,J.] & [S.M.,J.]
30.01.2023

Index: Yes/No
Internet: Yes/No
NCC : Yes/No
PJL



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To

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The District Collector and District Magistrate,
Thanjavur District,Thanjavur.

3.The Superintendent,
Central Prison,
Tiruchirapalli.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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**DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.**

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